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6 | Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 DISTRICT COUNCIL 16 NORTHERN
11 CALIFORNIA HEALTH AND WELFARE
TRUST FUND, et al.,

12 | Plaintiffs,

13 | v.

14 S D FLOORING, INC. a California Corporation,

Defendant.

Case No: C10-4765 SBA

**REQUEST FOR ISSUANCE OF
WRIT OF EXECUTION;
DECLARATION OF MICHELE R.
STAFFORD IN SUPPORT THEREOF**

18 | TO THE CLERK OF THE COURT:

19 I, Michele R. Stafford, declare under penalty of perjury that:

20 1. I am the attorney for the Plaintiffs in the above-entitled action.

21 2. On January 5, 2011, within ten years past, a Judgment Pursuant to Stipulation
22 (hereinafter “Stipulation”) was entered in favor of Plaintiffs and against Defendant in the amount
23 of **\$45,950.87**, including conditionally waived liquidated damages in the amount of \$7,598.27. A
24 true and accurate copy of the Stipulation is attached hereto as **EXHIBIT A**.

25 3. Pursuant to ¶ 10 of the Stipulation, Steven de Figueiredo personally guaranteed all
26 amounts due and owing under the Stipulation.

27 4. Pursuant to ¶ 4(a) of the Stipulation, beginning on December 15, 2010 and
28 continuing on or before the 15th day of each month until all the obligations under the Stipulation

1 have been paid in full, Defendant S D Flooring, Inc., and/or Steven de Figueiredo individually as
 2 personal guarantor, was to make monthly stipulated payments to Plaintiffs in the amount of
 3 \$3,228.00.

4 5. Defendant made three payments under the Stipulation, totaling \$9,684.00, of
 5 which \$9,405.55 was principal. Therefore, as of January 14, 2011, the date of Defendant's last
 6 payment, **\$28,947.05** remains due and owing under the Stipulation.

7 6. Pursuant to ¶ 4 of the Stipulation, the conditionally waived liquidated damages of
 8 \$7,598.27 are waived conditioned upon timely compliance with all of the terms of the Stipulation.
 9 Upon default by Defendant of any of the terms, the **\$7,598.27** is also due and owing.

10 7. Pursuant to ¶ 9 of the Stipulation, Defendant is also required to remain current in
 11 monthly contributions due to Plaintiffs under the Collective Bargaining Agreement. Failure by
 12 Defendant to remain current in contributions constitutes a default of the Stipulation and all
 13 additional unpaid contributions incurred during the stipulated payment period are to be added to
 14 and become part of the Judgment balance, together with 5% per annum interest and 20%
 15 liquidated damages. Defendant failed to pay October 2010 contributions reported by Defendant as
 16 due, in the amount of **\$62,326.58**, thereby constituting a default of the Stipulation. A true and
 17 accurate copy of the October 2010 contribution report [redacted] is attached hereto as **EXHIBIT**
 18 **B.** Liquidated damages of **\$12,465.32** for the reported month and interest in the amount of
 19 **\$486.66** (through January 26, 2011) are also due and payable and added as part of the Judgment.

20 Defendant also paid November 2010 contributions in the amount of \$48,946.02,
 21 late on January 6, 2011. A true and accurate copy of the November 2010 contributions report
 22 [redacted] is attached hereto as **EXHIBIT C.** Liquidated damages of **\$9,789.20** for the reported
 23 month and interest in the amount of **\$174.33** (through January 26, 2011) are also due and payable
 24 and added as part of the Judgment.

25 8. Twelve (12) days have elapsed from January 14, 2011, the date of the last
 26 stipulated payment, to January 26, 2011. Therefore interest of **\$40.83**, at the rate of 5% per
 27 annum, has accrued through January 26, 2011.

28 9. Pursuant to ¶ 12(d) of the Stipulation, Plaintiffs are entitled to all additional

1 attorneys' fees and costs in connection with the collection and allocation of the amounts owed,
 2 regardless of whether or not Defendant/Guarantor default. Attorneys' fees through November 8,
 3 2010 are included in the Stipulation. Additional attorneys' fees in the amount of **\$2,685.00**, and
 4 costs in the amount of **\$75.00**, were incurred between November 9, 2010 and January 26, 2011, in
 5 Plaintiffs' attempts to satisfy Defendant's multiple defaults on the Stipulation and other amounts
 6 due under the Stipulation, and in the preparation of this Writ Request and Writ of Execution.

7 10. The total amount now due and owing by Defendant to Plaintiffs is as follows:

8	Stipulation	Balance	\$28,947.05	
9		Conditionally Waived Liquidated Damages	\$7,598.27	
10		5% Interest (through 1/26/11)	\$40.83	
11				\$36,586.15
12	October 2010	Contributions	\$62,326.58	
13		20% Liquidated Damages	\$12,465.32	
14		5% Interest (through 1/26/11)	\$486.66	
15				\$75,278.56
16	November 2010	20% Liquidated Damages	\$9,789.20	
17		5% Interest (through 1/26/11)	\$174.33	
18				\$9,963.53
19	SUB-TOTAL			
20	Attorneys Fees (11/9/10 – 1/26/11)			
21	Costs (11/9/10 – 1/26/11)			
22	TOTAL			
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18 WHEREFORE, it is prayed that a Writ of Execution be promptly issued against S D
 19 Flooring, Inc., and Steven de Figueiredo individually as personal guarantor, in the amount of
 20 **\$124,588.24**, plus 5% per annum interest on the Stipulation balance and contributions
 21 (\$91,273.63) (\$12.50 per diem), and at the legal rate of 0.26% interest per annum (Federal Reserve
 22 Release Date for the week of January 24, 2011) on the other amounts due (\$33,314.61) (\$0.24 per
 23 diem) from January 27, 2011, until satisfied, and that the Court retain jurisdiction over this matter.

24 To the best of my knowledge and belief, Defendant S D Flooring, Inc. is a corporation and
 25 therefore not an infant or incompetent person, nor in the military service of the United States, and
 26 Steven de Figueiredo is not an infant or an incompetent person or in the military service of the
 27 United States.

1 I declare under penalty of perjury that the foregoing is true of my own knowledge and if
2 called upon I could competently testify thereto.

3 Dated: January 27, 2011

SALTZMAN & JOHNSON
LAW CORPORATION

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/s/
Michele R. Stafford
Attorneys for Plaintiffs

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